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GOVERNMENT OF MYSORE.

LEGISLATIVE DEPARTMENT.

The 31st July 1894.

The following Draft Regulation which is under the consideration of the Government of His Highness the Maharaja of Mysore is published for general information.

By order,

C. MEENACSHAIYA,
Legislative Secretary.

(DRAFT.)

REGULATION NO. OF 189 .

A Regulation to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition; His Highness the Maharaja is pleased to enact as follows:—

PART I.

PRELIMINARY.

Short title, extent, and commencement.

1. (1) This Regulation may be called the Mysore Land Acquisition Regulation, 189 .

(2) It extends to the whole of the Territories of Mysore; and

(3) It shall come into force on the 1st day of 189 .

Repeal.

2. (1) The Land Acquisition Act, 1870, is hereby repealed.

(2) But all proceedings commenced, officers appointed or authorized, agreements published, and rules made under the said Land Acquisition Act shall, as far as may be, be deemed to have been respectively commenced, appointed or authorized, published, and made under this Regulation.

(3) Any enactment or document referring to the said Land Acquisition Act or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Regulation or to the corresponding portion thereof.

Definitions.

3. In this Regulation, unless there is something repugnant in the subject or context,—

(*a*) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth:

(*b*) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Regulation; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land:

(*c*) the expression "Deputy Commissioner" means the Deputy Commissioner of a district, and includes any officer specially appointed by the Government of Mysore to perform the functions of a Deputy Commissioner under this Regulation:

(*d*) the expression "Court" means a principal Civil Court of original jurisdiction, unless the Government of Mysore has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Regulation:

(*e*) the expression "Company" means a Company registered under the law for the time being in force relating to companies in the Territories of Mysore, or under the Indian Companies Act, 1882, or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament or of the Governor-General in Council, or by Royal Charter or Letters Patent:

(*f*) the expression "public purpose" includes the provision of village-sites;

(*g*) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability;

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age: and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics, or idiots themselves, if free from disability, could have acted:

Provided that—

(*i*) no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown to the satisfaction of the Deputy Commissioner or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(*ii*) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Deputy Commissioner or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(*iii*) the provisions of Chapter XXXI of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Deputy Commissioner or Court by a next friend, or by a guardian for the case, in proceedings under this Regulation; and

(*iv*) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

ACQUISITION.

Preliminary Investigation.

Publication of preliminary notification and powers of officers thereupon.

4. (1) Whenever it appears to the Government of Mysore that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Deputy Commissioner shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by the Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the sub-soil;
to do all other acts necessary to ascertain whether the land is adapted for such purpose;
to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;
to mark such levels, boundaries, and line by placing marks and cutting trenches; and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence, or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Deputy Commissioner or other chief revenue-officer of the district, and such decision shall be final.

Declaration of intended Acquisition.

Declaration that land is required for a public purpose.

6. (1) Subject to the provisions of Part VII of this Regulation, whenever it appears to the Government of Mysore that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders:

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and, after making such declaration, the Government of Mysore may acquire the land in manner hereinafter appearing.

After declaration, Deputy Commissioner to take order for acquisition.

7. Whenever any land shall have been so declared to be needed for a public purpose, or for a Company, the Government of Mysore, or some officer authorized by the Government of Mysore in this behalf, shall direct the Deputy Commissioner to take order for the acquisition of the land.

Land to be marked out, measured, and planned.

8. The Deputy Commissioner shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

Notice to persons interested.

9. (1) The Deputy Commissioner shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such lands may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Deputy Commissioner at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the

nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Deputy Commissioner may in any case require such statement to be made in writing, and signed by the party or his agent.

(3) The Deputy Commissioner shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address, or place of business, and registered under Part III of the Indian Post Office Act, 1866.

Power to require and enforce the making of statements as to names and interests.

10. (1) The Deputy Commissioner may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant, or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a sta ement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Enquiry into Measurements, Value and Claims, and Award by the Deputy Commissioner.

Enquiry and award by Deputy Commissioner.

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Deputy Commissioner shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

(*i*) the true area of the land;

(*ii*) the compensation which in his opinion should be allowed for the land; and

(*iii*) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Award of Deputy Commissioner when to be final.

12. (1) Such award shall be filed in the Deputy Commissioner's office, and shall, except as hereinafter provided, be final and conclusive evidence, as between the Deputy Commissioner and the persons interested, whether they have respectively appeared before the Deputy Commissioner or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Deputy Commissioner shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

Adjournment of enquiry.

13. The Deputy Commissioner may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

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14. For the purpose of enquiries under this Regulation, the Deputy Commissioner shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Precedure.

Power to summon and enforce attendance of witnesses and production of documents.

15. In determining the amount of compensation, the Deputy Commissioner shall be guided by the provisions contained in sections 23 and 24.

Matters to be considered and neglected.

Taking possession.

16. When the Deputy Commissioner has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

Power to take possession.

17. (1) In cases of urgency, whenever the Government of Mysore so directs, the Deputy Commissioner, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

Special powers in case of urgency.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, the Deputy Commissioner may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the Goverment of Mysore, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances:

Provided that the Deputy Commissioner shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections, the Deputy Commissioner shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

18. (1) Any person interested who has not accepted the award, may, by written application to the Deputy Commissioner, require that the matter be referred by the Deputy Commissioner for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

Reference to Court.

(2) The application shall state the grounds on which objection to the award is taken:

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Provided that every such application shall be made,—

(*a*) if the person making it was present or represented before the Deputy Commissioner at the time when he made his award, within six weeks from the date of the Deputy Commissioner's award;

(*b*) in other cases, within six weeks of the receipt of the notice from the Deputy Commissioner under section 12, sub-section (2), or within six months from the date of the Deputy Commissioner's award, whichever period shall first expire.

Deputy Commissioner's statement to the Court.

19. (1) In making the reference, the Deputy Commissioner shall state, for the information of the Court, in writing under his hand,—

(*a*) the situation and extent of the land, with particulars of any trees, buildings, or standing crops thereon;

(*b*) the names of the persons whom he has reason to think interested in such land;

(*c*) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11; and,

(*d*) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

Service of notice.

20. The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:—

(*a*) the applicant;

(*b*) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and,

(*c*) if the objection is in regard to the area of the land or to the amount of the compensation, the Deputy Commissioner.

Restriction on scope of proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Proceedings to be in open Court.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead, and act (as the case may be) in such proceeding.

Matters to be considered in determining compensation.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Regulation, the Court shall take into consideration—

first, the market-value of the land at the date of the publication of the declaration relating thereto under section 6;

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Deputy Commissioner's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Deputy Commissioner's taking possession of the land, by reason of severing such land from his other land;

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fourthly, the damage (if any) sustained by the person interested, at the time of the Deputy Commissioner's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, if, in consequence of the acquisition of the land by the Deputy Commissioner, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) *bonâ fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Deputy Commissioner's taking possession of the land.

(2) In addition to the market value of the land, as above provided, the Court shall in every case award a sum of fifteen per centum on such market value in consideration of the compulsory nature of the acquisition.

Matters to be neglected in determining compensation.

24. But the Court shall not take into consideration,—

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or,

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Deputy Commissioner after the date of the publication of the declaration under section 6.

Rules as to amount of compensation.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Deputy Commissioner under section 11.

(2) When the applicant has refused to make such claim, or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Deputy Commissioner.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Deputy Commissioner.

Form of awards.

26. Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

Costs.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Deputy Commissioner is not upheld, the costs shall ordinarily be paid by the Deputy Commissioner, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Deputy Commissioner that some deduction from his costs should be made or that he should pay a part of the Deputy Commissioner's costs.

Deputy Commissioner may be directed to pay interest on excess compensation.

28. If the sum which, in the opinion of the Court, the Deputy Commissioner ought to have awarded as compensation is in excess of the sum which the Deputy Commissioner did award as compensation, the award of the Court may direct that the Deputy Commissioner shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

PART IV.

APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Deputy Commissioner may refer such dispute to the decision of the Court.

PART V.

PAYMENT.

Payment of compensation or deposit of same in Court.

31. (1) On making an award under section 11, the Deputy Commissioner shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Deputy Commissioner shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Regulation, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Deputy Commissioner may, with the sanction of the Government of Mysore, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a

limited interest in such land, either by the grant of other lands in exchange, the remission of land revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Deputy Commissioner to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonging to any person who had no power to alienate the same, the Court shall—

(*a*) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(*b*) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(*i*) in the purchase of such other lands as aforesaid; or

(*ii*) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Deputy Commissioner, namely:—

(*a*) the costs of such investments as aforesaid;

(*b*) the costs of the orders for the payment of the interest or other preceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment of money deposited in other cases.

33. When any money shall have been deposited in Court under this Regulation for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Payment of interest.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Deputy Commissioner shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

PART VI.

TEMPORARY OCCUPATION OF LAND.

Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.

35. (1) Subject to the provisions of Part VII of this Regulation, whenever it appears to the Government of Mysore that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Government of Mysore may direct the Deputy Commissioner to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation

(2) The Deputy Commissioner shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Deputy Commissioner and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Deputy Commissioner shall refer such difference to the decision of the Court.

Power to enter and take possession, and compensation on restoration.

36. (1) On payment of such compensation, or on executing such agreement, or on making a reference under section 35,

the Deputy Commissioner may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Deputy Commissioner shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein :

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Government of Mysore shall proceed under this Regulation to acquire the land as if it was needed permanently for a public purpose or for a Company.

Difference as to condition of land.

37. In case the Deputy Commissioner and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Deputy Commissioner shall refer such difference to the decision of the Court.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

Company may be authorized to enter and survey.

38. (1) The Government of Mysore may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted; and section 5 shall be construed as if after the words "the officer" the words "of the Company" were inserted.

Previous consent of Government of Mysore and execution of agreement necessary.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Government of Mysore, nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous enquiry.

40. (1) Such consent shall not be given unless the Government of Mysore be satisfied, by an enquiry held as hereinafter provided,—

(*a*) that such acquisition is needed for the construction of some work, and

(*b*) that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the Government of Mysore shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a Civil Court.

41. Such officer shall report to the Government of Mysore the result of the enquiry, and, if it is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as it may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Government of Mysore providing for the following matters, namely :—

Agreement with Government of Mysore.

(1) the payment to Government of the cost of the acquisition;
(2) the transfer, on such payment, of the land to the Company;
(3) the terms on which the land shall be held by the Company;
(4) the time within which, and the conditions on which, the work shall be executed and maintained; and
(5) the terms on which the public shall be entitled to use the work.

42. Every such agreement shall, as soon as may be after its execution, be published in the Official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Regulation.

Publication of agreement.

43. The provisions of sections 39 to 42, both inclusive, shall not apply, and the corresponding sections of the Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which the Government is, or was, bound to provide land.

Sections 39 to 42 not to apply where Government bound to provide land for Companies.

44. The obligation mentioned in section 43 may be proved by any memorandum, certificate, or order issued by Government.

How such obligation may be proved.

PART VIII

MISCELLANEOUS.

45. (1) Service of any notice under this Regulation shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Deputy Commissioner or the Judge.

Service of notices.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Deputy Commissioner or in the court-house, and also in some conspicuous part of the land to be acquired.

Provided that, if the Deputy Commissioner or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address, or place of business, and registered under Part III of the Indian Post Office Act, 1866, and service of it may be proved by the production of the addressee's receipt.

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages, or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Penalty for obstructing acquisition of land.

Magistrate to enforce surrender.

47. If the Deputy Commissioner is opposed or impeded in taking possession under this Regulation of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate who shall enforce the surrender of the land to the Deputy Commissioner.

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraws from any such acquisition, the Deputy Commissioner shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Regulation relating to the said land.

(3) The provisions of Part III of this Regulation shall apply, so far as may be, to the determination of the compensation payable under this section.

Acquisition of part of house or building.

49. (1) The provisions of this Regulation shall not be put in force for the purpose of acquiring a part only of any house, manufactory, or other building, if the owner desire that the whole of such house, manufactory, or building shall be so acquired:

Provided that the owner may, at any time before the Deputy Commissioner has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory, or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Regulation does or not form part of a house, manufactory, or building within the meaning of this section, the Deputy Commissioner shall refer the determination of such question to the Court, and shall not take possession of such land until after the question has been determined.

In deciding on such a reference, the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory, or building.

(2) If, in the case of any claim under section 23, sub-section (1), *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the Government of Mysore is of opinion that the claim is unreasonable or excessive, it may, at any time before the Deputy Commissioner has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary; but the Deputy Commissioner shall without delay furnish a copy of the order of the Government of Mysore to the person interested, and shall thereafter proceed to make his award under section 11.

Acquisition of land at cost of a local authority or Company.

50. (1) Where the provisions of this Regulation are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

(2) In any proceeding held before a Deputy Commissioner or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.